

TOTAL GAS & POWER LIMITED

Chris Chapman
Head of Planning
Office of Gas and Electricity Markets
9 Millbank
London
SW1P 3GE

13th October 2003

Dear Chris,

Ofgem's three year strategy 2004-7

We are writing in response to the letter from Sir John Mogg in which he asked for our views on the future strategy for Ofgem.

In previous years Total has commented on the various proposed corporate strategy documents when they have been issued for consultation. Our comments now do not essentially vary from those made earlier. Overall we believe that Ofgem share our view that competition is well established in the gas and electricity markets for both the domestic and Industrial & Commercial sectors. Our view is supported by a number of publications both from Ofgem and from other organisations such as the National Audit office. Most recently you have published 2 documents, 'Review of competition in the non-domestic gas and electricity supply sectors (July 2003)' and 'Domestic gas and electricity supply competition – Recent developments (June 2003)'. Both of these recognised that competition is effective. To quote from one of your own press releases "Today's report shows that competition for domestic customers is strong and benefiting vulnerable customers as well as those that are well-off. Energy retail markets are hugely dynamic, with higher rates of switching than almost any comparable market."

Furthermore Ofgem have always stated that it is their intention to withdraw from direct regulation when it is clear that competition is effective. With this in mind our first observation would be that Ofgem's focus for competitive markets should be to move from one of '**Making** competitive markets work successfully' to '**Monitoring** competitive markets to ensure their continuing success'.

Despite this acceptance that "competition is effective" the industry is still witnessing significant proposals to amend the regulatory framework. The gas sector alone is impacted by the following:

- Potential Sale of network distribution businesses
- Reform of the NTS exit and interruption regime
- Reform of the Gas Metering Arrangements
- Reform of the Gas Governance arrangements including Supply Point Administration
- Review of the Customer Transfer Processes
- Monitoring of the Gas Balancing Arrangements
- Ad-hoc modifications

Similarly the electricity sector is affected by:

- British Electricity Trading and Transmission Arrangements (BETTA)
- Transmission Access reforms in advance of BETTA
- Fuel Labelling
- Ad-hoc modifications to fully embed NETA



The majority of this change is instigated by Ofgem and involves the industry in both direct and indirect cost in terms of resource, business and systems process changes, as well as increased regulatory uncertainty. Only one of the above, the Review of the Customer Transfer Process, has been directly instigated by the industry albeit under significant pressure from Ofgem to improve the switching process for customers.

We would strongly urge you to review this level of activity to determine its justification. Whilst such activity requires significant levels of industry resource we are concerned that it also requires substantial resource from Ofgem if progress is to be made. Even on the current level of activity there are delays introduced because of the length of time taken by Ofgem to respond to industry discussion or to produce updates to consultations. The program of work currently envisaged would, we believe, exacerbate this situation. Neither do we believe that a solution would be to increase the level of Ofgem resource (even if such suitably qualified resource could be recruited) as this would put huge strains on the industry and would create additional risk due to the problems in attempting to run a number of major projects concurrently, many of which address similar business areas.

The Total activity within the UK is focussed mainly in the Industrial & Commercial sector. We do have concerns that to date Ofgem's strategy has failed to make any real distinction between the domestic and I&C markets. As such the approach taken by Ofgem has affected both markets even where the problem that is attempted to be resolved only applies to one of them. We would recommend that in any future strategy, consideration be given to whether an area of work is general to the whole market or is market specific. Further we believe it would be helpful if Ofgem made a clear statement of their medium and long term plans for initiatives impacting the I&C energy markets.

Our comments above have focussed on the objective in the current strategy of 'Making competitive markets work successfully'. This objective has a share of over 60% of the current Ofgem budget for 2003-04. It is also the area that has the largest potential impact on our own activities.

We recognise that there could be requirements for significant infrastructure investment in both the gas and electricity networks over the next decade to meet changes required to cater for the move towards becoming a net gas importer and to meet the changes in electricity generation as a result of the tightening of emissions targets. It is therefore within this area that we believe the most benefit will come from a strong regulatory presence. The correct level of investment is vital to provide the appropriate transportation flexibility required to allow various sources of supply to compete effectively. The drivers for the monopoly businesses also need to be organised to efficiently meet the requirements of their customer base. We have in the past expressed concerns about the way some of the incentives developed for NGT may not be in the best overall interests of their customers and end consumers. As such we welcome the proposed review of this area. We trust that in reaching a decision on the proposed Distribution Network sale by NGT, Ofgem will fully evaluate both the short term benefits and the long term risks of such a fundamental change to the UK gas structure. Whilst we are convinced that a competitive market can respond to the challenges ahead, it will only be able to do so if the regulatory regime is favourable.

Finally, we welcome the recent moves to introduce Regulatory Impact Assessments as part of the Ofgem analysis of proposals. We have long suggested that significant change must be fully justified, including analysis of the costs and environmental and regulatory benefits associated with such change. We look forward to the continuation of such analysis.

Yours sincerely,

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